

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

UNITED STATES OF AMERICA)	DOCKET NO. 1:10 CR 32/5
)	
vs.)	<u>MOTION FOR A</u>
)	<u>DOWNWARD DEPARTURE</u>
WILLIE JERMILLE CHAPPELL)	

NOW COMES the United States of America, by and through Anne M. Tompkins, United States Attorney for the Western District of North Carolina, who moves, pursuant to Section 5K1.1 of the Sentencing Guidelines and Title 18, United States Code, Section 3553(e), for a downward departure from the applicable Guideline range to reflect defendant's substantial assistance.

The defendant has provided substantial assistance in the investigation and prosecution of other individuals. The degree of such a reduction must be reasonable and should reflect the Court's assessment of the defendant's substantial assistance in the investigation and prosecution of others. "Substantial weight should be given to the government's evaluation of the extent of the defendant's assistance, particularly where the extent and value of the assistance are difficult to ascertain." Section 5K1.1 Application Note 3. Additionally, "the sentencing judge must...state the reasons for reducing a sentence under [5K1.1]." Commentary to Section 5K1.1; see also Title 18, United States Code, Section 3553(e).

BASIS FOR MOTION AND SPECIFIC RECOMMENDATION

Section 5K1.1(a) *U.S.S.G.*, enumerates a non-exclusive list of factors the Court may consider in determining whether a downward departure should be granted and, if so, the extent of such departure. Below, the United States addresses each such relevant factor and sets forth the specific recommended reduction based on such factor.

(a)(1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;

Government's evaluation: The defendant testified in the trial of *United States v. Allen* and was forthcoming regarding his conduct in the conspiracy as well as that of his co-conspirators.

(a)(2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

Government's evaluation: See above. All the information provided was corroborated indicating truthfulness, completeness and reliability.

(a)(3) the nature and extent of the defendant's assistance;

Government's evaluation: Complete.

(a)(4) any injury suffered, or and danger or risk of injury to the defendant or her family resulting from his assistance;

Government's evaluation: None known to the government.

(a)(5) the timeliness of the defendant's assistance.

Government's evaluation: His assistance was timely and continued until all matters concerning the case were resolved.

If the Court allows each of the recommended reductions specified above, the following modifications in calculations presented in the PSR will result:

<u>FROM</u>	<u>TO</u>
<u>OFF. LEVEL / CRIM HISTORY</u>	<u>OFF. LEVEL/CRIM. HISTORY</u>
37/III	35/III
<u>RANGE</u>	<u>RANGE</u>
262-327 months	210 - 262 months

THIS RECOMMENDATION IS THE LOWEST RECOMMENDATION FOR REDUCTION BY THE GOVERNMENT. IF THE DEFENDANT'S OBJECTIONS TO THE PSR RESULT IN ANY MODIFICATION TO THE CALCULATIONS IN THE PSR, THE GOVERNMENT'S RECOMMENDATION AS TO THE "GUIDELINE RANGE" ABOVE WILL NOT BE REDUCED BY SUCH MODIFICATION.

The United States respectfully requests the Court to depart downward from the original calculations of the PSR and impose a sentence within the range as calculated under the above recommendations.

Respectfully submitted, this the 30th day of June, 2011.

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Certificate of Service:

This was served upon counsel for the defendant, Jack Steward, via electronic filing and at email address:jack@jackstewartlaw.com

/s Jill Westmoreland Rose
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